

REMARKS

As a preliminary matter, Examiner provisionally reject Claim 28, 29, and 31-34 on the ground of nonstatutory double patenting over Claims 26-28 of copending U.S. Patent Application Serial No. 10/587,367 ("the '367 Application"). A terminal disclaimer directed to the '367 Application is enclosed herewith in Appendix A. Accordingly, Applicant respectfully asserts that the current double patenting rejection has been overcome. Therefore, Applicant respectfully requests Examiner withdraw the rejection of Claims 28, 29, and 31-34 on the ground of nonstatutory double patenting over Claims 26-28 of copending U.S. Patent Application Serial No. 10/587,367.

Examiner has rejected Claims 28, 29, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,426,239 to Witzberger ("Witzberger"). The Examiner has also rejected Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Witzberger.

Independent Claims 38 and 31 stand currently amended, in part, to clarify that the supporting first inclined surface **is inclined with respect to the inner side of the thin wall**.

Claims 1-26 stand previously canceled, and Claims 27, 30, 35-52 stand previously withdrawn. Claims 27-52 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current Claims 28, 29, and 31-34. An early Notice of Allowance is therefore requested.

I. SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The

Examiner carries the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

II. REJECTION OF CLAIMS 28, 29, 31, AND 34 UNDER 35 U.S.C. § 102(B)
BASED ON WITZBERGER

On page 2 of the current Office Action, the Examiner rejects Claims 28, 29, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by Witzberger. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Independent Claims 28 and 31 each states, in part:

“wherein the supporting **first inclined surface** is **inclined with respect to the inner side** of the thin wall, and rests on the rim or edge of the opening of the inner side of the thin wall when the latch is in the mounted position;

“wherein the **inclination** of the supporting first inclined surface with respect to the surface of the thin wall is **selected** such that **developing play**, between the first inclined surface and the rim or edge of the opening of the inner side of the thin wall, is **compensated** by movement induced by spring pressure on the supporting first inclined surface onto the rim or edge of the opening of the inner side of the thin wall, **when the latch is in the mounted position...**” (emphasis added).

Examiner’s assertion that Witzberger discloses the “supporting first inclined surface” of Claims 28 and 31 hinges on Examiner’s broad interpretation of the “inclined”. Accordingly, Claims 28 and 31 have been amended, in part, to clarify the surface to which the “supporting first inclined surface” is inclined. More specifically, as seen above, Claims 28 and 31 now clarify that the supporting **first inclined surface** is **inclined with respect to the inner side** of the thin wall.

Conversely, Witzberger clearly shows the asserted “first inclined surface” of the member 2 of Witzberger (as indicated by Examiner on page 3 of the 03/30/11 Office Action) as being **parallel** with respect to the inner side of the plates a, b. Thus, even under Examiner’s definition of “inclined”, the asserted “first inclined surface” of the member of Witzberger is **not** inclined with respect to the inner side of the plates a, b, since the asserted

“first inclined surface” of Witzberger does **not** make an angle with the inner side of the plates a, b (which Examiner asserts disclose the thin wall of Claims 28 and 31).

As such, Witzberger does **not** disclose the supporting **first inclined surface**, as required by Claims 28 and 31.

In addition, since the asserted “first inclined surface” of Witzberger is parallel with respect to the inner surface of the plate b, there is **no** movement to compensate for any play developing between the asserted “first inclined surface” and the rim or edge of the opening of the inner side of the plate b. In particular, as a result of the asserted “first inclined surface” of Witzberger being parallel to the inner surface of the plate b, the play between the right member 2 and the rim or edge of the opening of the inner side of the plate b (as clearly seen by the gap shown in Figs. 1 and 3) will remain **unchanged** when the holding element 2 is moved outward under spring pressure exerted by the spring 3. Thus, the arrangement of Witzberger does not compensate for the above described play.

As such, Witzberger also does **not** disclose that “the **inclination** of the supporting first inclined surface with respect to the surface of the thin wall is **selected** such that **developing play**, between the first inclined surface and the rim or edge of the opening of the inner side of the thin wall, is **compensated** by movement induced by spring pressure on the supporting first inclined surface onto the rim or edge of the opening of the inner side of the thin wall, **when the latch is in the mounted position**”, as required by Claims 28 and 31.

Accordingly, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of anticipation of independent Claims 28 and 31, and corresponding Claims 29 and 34 because they each ultimately depend from Claim 28. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 28, 29, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,426,239 to Witzberger.

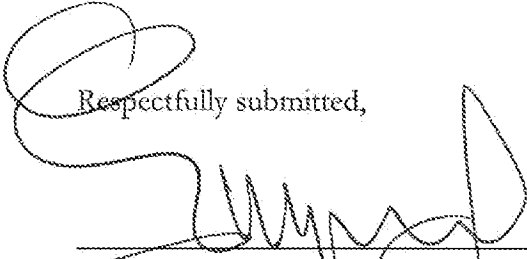
**III. REJECTION OF CLAIMS 32 AND 33 UNDER 35 U.S.C. § 103(A) BASED ON
VICKERS IN VIEW OF WITZBERGER**

On page 5 of the current Office Action, the Examiner rejects Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Witzberger. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 32 and 33 ultimately depend from independent Claim 31. As Claim 31 is allowable, so must be Claims 32 and 33. Accordingly, Applicant respectfully asserts that Examiner has failed to establish a prima facie case of obviousness of Claims 32 and 33. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 1,426,239 to Witzberger.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



Eugene LeDonne — Reg. No. 35,930
Joseph W. Treloar — Reg. No. 60,975
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151
Tel.: 212.588.0800

ELD:JWT

135408-2038

Appendix A

Terminal Disclaimer Directed to
U.S. Patent Application
Serial No. 10/587,367